

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

RICHARD B. MCDONOUGH,

Plaintiff,

v.

STATE FARM FIRE AND CASUALTY
COMPANY,

Defendant.

No. 5:18-cv-02247

ORDER

AND NOW, this 7th, day of February, 2019, upon consideration of Plaintiff's Complaint, ECF No. 1; Defendant's Partial Motion to Dismiss for Failure to State a Claim, ECF No. 6; Plaintiff's Response to Defendant's Motion to Dismiss, ECF No. 7; and Defendant's Reply, ECF No. 8, and for the reasons set forth in the accompanying Opinion, **IT IS ORDERED** that:

1. Defendant's Partial Motion to Dismiss for Failure to State a Claim, ECF No. 6, is **GRANTED**.

2. Plaintiff is granted leave to file an amended complaint with respect to Counts I and IV **no later than February 28, 2019**.¹

BY THE COURT:

/s/ Joseph F. Leeson, Jr.

JOSEPH F. LEESON, JR.

United States District Judge

¹ The Court does not grant leave to amend on Count II. As a matter of law, Plaintiff's common law bad faith claim is subsumed into the breach of contract claim. Amendment to that claim would be futile.